

# Other Administrative Requirements



## CHAPTER 6

*This chapter discusses school requirements that are not directly related to student aid or academics, such as required policies and procedures for campus security and fire safety.*

### SAFETY REQUIREMENTS

#### Reporting crimes

Schools must have policies that encourage complete timely reporting of all crimes to the campus police and appropriate law enforcement agencies. Also, schools that participate in the FSA programs and have a campus police or security department must maintain a written, easily understood, daily crime log. The log must list any crime, by the date it was reported to the campus police or security department, that occurred on campus, on a noncampus building or property, on public property, or within the police or security department's patrol jurisdiction. The log must also include the nature, date, time, and general location of each crime and the disposition of the complaint, if known.

The school must make an entry or an addition to an entry to the log within two business days (Monday–Friday, except days when the school is closed) of the report of the information to the campus police or security department unless that disclosure is prohibited by law or would jeopardize the confidentiality of the victim.

A school may withhold one or more of the required pieces of information if there is clear and convincing evidence that the release of the information would

- ♦ jeopardize an ongoing criminal investigation or the safety of an individual,
- ♦ cause a suspect to flee or evade detection, or
- ♦ result in the destruction of evidence.

However, the school must disclose any information withheld for any of these reasons once the adverse effect is no longer likely to occur.

The school must make the crime log for the most recent 60-day period open to public inspection during normal business hours. The school must make any portion of the log older than 60 days available within two business days of a request for public inspection.

### CHAPTER 8 HIGHLIGHTS

- Safety requirements
- Reporting foreign sources and gifts
- Anti-lobbying provisions
- Voter registration

### Citations

34 CFR 668.46(f)  
Fire safety log  
34 CFR 668.49  
Missing persons  
34 CFR 668.46(h)  
Emergency response & evacuation  
34 CFR 668.46(g)

### Reporting campus security and fire safety data to ED

Security and fire safety survey data is collected through the Department's Campus Crime and Security website (requires password and user ID): <https://surveys.ope.ed.gov/security>.

## Fire safety

Fire safety requirements were added by the Higher Education Opportunity Act (HEOA) of 2008  
HEA 485(i)  
34 CFR 668.49

### Definitions

*On-campus student housing facility*—a dormitory or other residential facility for students that is located on a school's campus.

*Campus*—any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls.

### Missing persons procedures—private right of action

The requirements for a school to establish missing persons procedures do not provide a private right of action to any person to enforce a provision of the subsection or create a cause of action against any institution of higher education or any employee of the institution for any civil liability.

HEOA section 488(g) HEA section 485(j)  
Effective date: August 14, 2008

## Fire safety

A school that has any on-campus student housing facility must maintain a written, easily understood log that records, by the date that the fire was reported, any fire that occurred in an on-campus student housing facility. This log must include the nature, date, time, and general location of each fire.

The school must

- ♦ make an entry or an addition to an entry to the log within two business days of the receipt of the information,
- ♦ make the fire log for the most recent 60-day period open to public inspection during normal business hours, and
- ♦ make any portion of the log older than 60 days available within two business days of a request for public inspection.

A school must annually submit a copy of the fire safety statistics to the Department and include the fire safety statistics in its annual report to the campus community.

### Missing persons procedures

A school that provides on-campus student housing facility must establish a missing student notification policy and include a description of its policy in its annual security report to the campus community. The notification policy must

- ♦ include a list of titles of the persons or organizations to which students, employees, or other individuals should report that a student has been missing for 24 hours;
- ♦ require that any missing student report be referred immediately to the school's police or campus security department (if the school doesn't have such a department, it must refer the report to the local law enforcement agency that has jurisdiction in the area); and
- ♦ include an option for each student to identify a contact person or persons whom the school shall notify within 24 hours of a determination (by the school's police or campus security department or the local law enforcement agency) that the student is missing.

Students must be advised that

- ♦ their contact information will be registered confidentially, that this information will be accessible only to authorized campus officials, and that it may not be disclosed, except to law enforcement personnel in furtherance of a missing person investigation;

- ♦ if they are under 18 years of age and not emancipated, the school must notify a custodial parent or guardian within 24 hours of the determination that the student is missing, in addition to notifying any additional contact person designated by the student; and
- ♦ the school will notify the local law enforcement agency within 24 hours of the determination that the student is missing unless the local law enforcement agency was the entity that made the determination that the student is missing.

When a student who resides in an on-campus student housing facility is determined to have been missing for 24 hours, the school must within 24 hours notify

- ♦ the contact person if the student has designated one, and
- ♦ the student's custodial parent or guardian if the student is less than 18 years old and is not emancipated.

In all cases the school must inform the local law enforcement agency that has jurisdiction in the area within 24 hours that the student is missing.

### ***Emergency response & evacuation***

A school must develop emergency response and evacuation procedures and include a description of its procedures in its annual security report to the campus community.

A school must develop procedures to immediately notify the campus community upon the confirmation of a significant emergency or dangerous situation involving an immediate threat to the health or safety of students or employees occurring on the campus.

At a minimum, schools must have procedures to

- ♦ confirm that a significant emergency or dangerous situation (as described above) exists;
- ♦ determine the appropriate segment or segments of the campus community to receive a notification, the content of the notification; and to initiate the notification system;
- ♦ disseminate emergency information to the larger community; and
- ♦ test the emergency response and evacuation procedures on at least an annual basis, including announced or unannounced tests.

The school must compile a list of the titles of those persons or organizations responsible for determining whether an emergency or dangerous situation exists and who are authorized to initiate the notification process and include this information in the annual report.

### **Publicizing procedures**

The school must publicize its emergency response and evacuation procedures in conjunction with at least one test per calendar year. The school must document each test with a description of the exercise, stating the date and time, and indicating whether it was announced or unannounced.

### **Definition of "test"**

Regularly scheduled drills, exercises, and appropriate followthrough activities designed for assessment and evaluation of emergency plans and capabilities.

### **Crimes to be reported to campus community**

34 CFR 688.46(c)(1)

- (i) Criminal homicide:
  - (A) Murder and nonnegligent manslaughter.
  - (B) Negligent manslaughter.
- (ii) Sex offenses:
  - (A) Forcible sex offenses.
  - (B) Nonforcible sex offenses.
- (iii) Robbery.
- (iv) Aggravated assault.
- (v) Burglary.
- (vi) Motor vehicle theft.
- (vii) Arson.
- (viii) (A) Arrests for liquor law violations, drug law violations, and illegal weapons possession.
- (B) Persons not included in paragraph (c)(1) (viii)(A) of this section, who were referred for campus disciplinary action for liquor law violations, drug law violations, and illegal weapons possession.

34 CFR 688.46(c)(3)

An institution must report, by category of prejudice, the following crimes reported to local police agencies or to a campus security authority that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability:

- (i) Any crime it reports pursuant to paragraph (c)(1)(i) through (vii) of this section.
- (ii) The crimes of larceny-theft, simple assault, intimidation, and destruction/damage/vandalism of property.
- (iii) Any other crime involving bodily injury.

## Definitions

*Undergraduate students*—For purposes of §668.45 and 668.48 [completion and graduation rates for students and student athletes] only, means students enrolled in a bachelor's degree program, an associate degree program, or a vocational or technical program below the baccalaureate. 34 CFR 668.41(a)

*Certificate or degree-seeking student*—a student enrolled in a course of credit who is recognized by the institution as seeking a degree or certificate.

## Where to report foreign gift information

Foreign gift, contract, and ownership or control reports must be submitted to the FSA School Participation Teams using FSA's electronic application (E-App) found at [www.eligcert.ed.gov](http://www.eligcert.ed.gov).

## Definitions

*A foreign source is*

- a foreign government, including an agency of a foreign government;
- a legal entity created solely under the laws of a foreign state or states;
- an individual who is not a citizen or national of the United States; and
- an agent acting on behalf of a foreign source.

*A gift* is any gift of money or property.

*A contract* is any agreement for the acquisition by purchase, lease, or barter of property or services for the direct benefit or use of either of the parties.

## Prohibition on use of FSA funds

HEOA 2008 section 119  
(no corresponding HEA section)  
Effective date: Aug. 14, 2008

In the event of an emergency or dangerous situation, a school must, without delay and taking into account the safety of the community, determine the content of the notification and initiate the notification system unless issuing a notification will, in the professional judgment of responsible authorities, compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

## Timely warning & emergency notification

A school must, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are

- ♦ included in campus crime statistics, such as arson, robbery, burglary, motor vehicle theft, aggravated assault, criminal homicides, and sex offenses (see full listing in the sidebar on the previous page), or
- ♦ reported to local police agencies or to campus security authorities (as identified under the school's statement of current campus policies), and
- ♦ considered by the school to represent a threat to students and employees.

A school is not required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

If there is an immediate threat to the health or safety of students or employees occurring on campus, a school must follow its emergency notification procedures. A school that follows its emergency notification procedures is not required to issue a timely warning based on the same circumstances; however, the school must provide adequate follow-up information to the community as needed.

## REPORTING INFORMATION ON FOREIGN SOURCES & GIFTS

Federal law requires most two-year and four-year postsecondary schools (whether or not the school is eligible to participate in the FSA programs) to report ownership or control by foreign sources as well as contracts with or gifts from the same foreign source that, alone or combined, have a value of \$250,000 or more for a calendar year. See *Volume 2, Chapter 8*, of the *FSA Handbook* for more information.

## ANTI-LOBBYING PROVISIONS

### *Prohibition on use of FSA funds*

FSA funds may not be used to pay any person for trying to influence

- ♦ a member of Congress or an employee of a member of Congress, or
- ♦ an officer or employee of Congress or any agency.

This prohibition applies to the making of a federal grant or loan, awarding federal contracts, and entering into federal cooperative agreements, as well as to the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement.

In addition, FSA funds may not be used to hire a registered lobbyist or to pay any person or entity for securing an earmark. Schools receiving FSA funds will have to certify their compliance with these requirements annually.

### *Campus-based disclosure*

If a school that receives more than \$100,000 in Campus-based funds has used *non-federal* funds to pay any person for lobbying activities in connection with the Campus-based programs, the school must submit a disclosure form (Standard Form LLL) to the Department. The school must update this disclosure at least quarterly and when changes occur.

The disclosure form must be signed by the chief executive officer (CEO) or other individual who has the authority to sign on behalf of the entire school. A school is advised to retain a copy in its files.

The school must require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

## VOTER REGISTRATION

Schools in most states and the District of Columbia must make a good faith effort to distribute voter registration forms to their students. (Schools in Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming are exempt from this requirement.) The school must make the voter registration forms widely available to its students. It must individually distribute the forms to its degree- or certificate-seeking (FSA-eligible) students.

### **Anti-lobbying certification & disclosure**

Section 319 of Pub. L. 101-121, enacted Oct. 23, 1989, amended title 31, United States Code, by adding a new section 1352, entitled "Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions," commonly known as the Byrd Anti-Lobbying Amendment.

As a result of that legislation, the Office of Management and Budget (OMB) issued interim final common regulations on Feb. 26, 1990, for implementing and complying with the law. See 34 CFR Part 82.

### **ACA may not be used for association membership**

A school may not use its administrative cost allowance (ACA) to pay for its membership in professional associations (such as the National Association of Student Financial Aid Administrators, the National Association of College and University Business Officers, etc.), regardless of whether the association engages in lobbying activities.

### **Applicability of voter registration requirement**

The voter registration requirement was included in the National Voter Registration Act of 1993. In essence, if a participating school is located in a state that requires voter registration prior to election day and/or does not allow the ability to register at the time of voting, then the school must make a good faith effort to distribute voter registration forms to its students.

The Department of Justice identified the states that meet these criteria—the requirements of the National Voter Registration Act of 1993 (also known as the "NVRA" or "motor voter law") apply to 44 States and the District of Columbia.

Six States (Idaho, Minnesota, New Hampshire, North Dakota, Wisconsin, and Wyoming) are exempt from the NVRA.

Likewise, the territories are not covered by the NVRA (Puerto Rico, Guam, Virgin Islands, American Samoa).

—From U.S. Department of Justice, "Questions and Answers" on "The Voter Registration Requirements of Sections 5, 6, 7, and 8 of the National Voter Registration Act."

The school can mail paper copies, or, alternatively, it may distribute voter registration forms by electronically transmitting to each student a message containing an acceptable voter registration form or an Internet address where that form can be downloaded. The electronic message must be devoted exclusively to voter registration.

In states where this condition applies, schools must request voter registration forms from the state 120 days prior to the state's deadline for registering to vote. This provision applies to general and special elections for federal office and to the elections of governors and other chief executives within a state. If a school does not receive the forms within 60 days prior to the deadline for registering to vote in the state, it is not liable for failing to meet the requirement during that election year.